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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,570	11/25/2003	Ralph T. Baker	2625	2058

7590 07/21/2004
E. Alan Uebler, Esq.
Lindell Square
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1601 Milltown Road
Wilmington, DE 19808

EXAMINER

LEV, BRUCE ALLEN

ART UNIT PAPER NUMBER

3634

DATE MAILED: 07/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/721,570		BAKER, RALPH T.	
	Examiner		Art Unit	
	Bruce A. Lev		3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

BRUCE A. LEV
PRIMARY EXAMINER

Attachment(s)

- | | |
|---|--|
| <p>1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/23/2003</u>.</p> | <p>4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____</p> <p>5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>6) <input type="checkbox"/> Other: _____</p> |
|---|--|

DETAILED ACTION

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The form and legal phraseology often used in patent claims, such as "*is disclosed*", as in lines 2-3, should be removed.

Claim Rejections - 35 USC 103

Claims 1-14, 22, and 26-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over ***Baker in view of Miller 4,252,214***.

As concerns claims 1-10, 22, and 26-32, ***Baker sets forth*** a fire escape apparatus comprising an upper ring member 4; an elongate mesh tube 6; an exit ring 8; a guide wire 22 affixed to a ground anchor 32; blocks-and-pulleys 30; a diameter between 3 and 4 feet; the use of fire resistant materials including nylon as. ***What Baker does not set forth*** is the *plurality* of spaced apart block-and-pulleys in a spaced apart fashion. However, ***Miller teaches*** the use of a block and dual pulley apparatus within a cable or wire system. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus of Baker by incorporating a block and dual pulley system, as taught by Miller, in order to reduce friction between the descending members and the guy wire and to offer more control over the rate of descent. As concerns the additional block-and-pulleys in a spaced

apart fashion, the examiner takes the position that it would have merely been a **duplication of parts** to provide additional block-and-pulleys means in a spaced apart fashion in order to reduce deflection and deformation of the tube when in use. As concerns particular spacing dimensions, the examiner takes the position that it is well established by case law that where general conditions are known in the art, it is **not inventive to discover the optimum or workable values**, accordingly, the examiner takes the position that since no engineering advantages nor new or unexpected results have been set forth for selecting these values over ones that are known, these limitations are considered to be an obvious **matter of design choice** determined through routine experimentation and optimization.

As concerns claims 11-14, the examiner takes the position that it is well established by case law that where general conditions are known in the art, it is **not inventive to discover the optimum or workable values**, accordingly, the examiner takes the position that since no engineering advantages nor new or unexpected results have been set forth for selecting these values over ones that are known, these limitations are considered to be an obvious **matter of design choice** determined through routine experimentation and optimization.

Claims 15-17 and 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over ***Baker in view of Miller further in view of Reece 6,098,747***.

As concerns claims 15-17, Baker in view of Miller set forth the fire escape apparatus, as advanced above, except for the sleeve upon the tube. However, ***Reece***

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sets forth that it is known in the art to incorporate a sleeve upon a tube (discussed in column 1, lines 37-43). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the escape apparatus of Baker in view of Miller by incorporating a sleeve upon the tube, as taught by Reece, in order to reduce binding within the tube and increase strength of the tube. As concerns particular sleeve lengths, the examiner takes the position that it is well established by case law that where general conditions are known in the art, it is **not inventive to discover the optimum or workable values**, accordingly, the examiner takes the position that since no engineering advantages nor new or unexpected results have been set forth for selecting these values over ones that are known, these limitations are considered to be an obvious **matter of design choice** determined through routine experimentation and optimization.

As concerns claims 23-25, Baker in view of Miller set forth the fire escape apparatus, as advanced above, except for the reinforcing cord. However, **Reece sets forth** the use of reinforcing cord members 40. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the escape apparatus of Baker in view of Miller by incorporating a reinforcing cord, as taught by Reece, in order to reduce binding within the tube and increase strength of the tube. As concerns particular cord strength, the examiner takes the position that it is well established by case law that where general conditions are known in the art, it is **not inventive to discover the optimum or workable values**, accordingly, the examiner takes the position that since no engineering advantages nor new or unexpected results

have been set forth for selecting these values over ones that are known, these limitations are considered to be an obvious **matter of design choice** determined through routine experimentation and optimization.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over ***Baker in view of Miller further in view of Reece further in view of Leach 3,763,497.***

Baker in view of Miller further in view of Reece set forth the fire escape apparatus, as advanced above, except for the sleeve being made from NOMEX. However, ***Leach teaches*** the use of NOMEX within fire resistant materials. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the escape apparatus of Baker in view of Miller further in view of Reece by forming the sleeve from NOMEX, as taught by Leach, in order to increase the fire resistance of the sleeve and thereby the apparatus.

Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over ***Baker in view of Miller further in view Nordtvedt 5,806,624.***

Baker in view of Miller set forth the fire escape apparatus, as advanced above, except for the canopy. However, ***Nordtvedt teaches*** the use of canopies 29, 30 to shield a user from flames of a fire. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the escape apparatus of Baker in view of Miller by incorporating a canopy, as taught by Nordtvedt, disposed over the entry ring and extending downward over at least an upper portion of

the tube in order to provide shielding means from the flames of a fire during entry into the tube.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over ***Baker in view of Miller further in view of Nordtvedt further in view of Reece.***

Baker in view of Miller further in view of Nordtvedt set forth the fire escape apparatus, as advanced above, except for the canopy formed from KEVLAR. However, ***Nordtvedt teaches*** the use of KEVLAR within a fire escape apparatus. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the canopy of Baker in view of Miller further in view of Nordtvedt by forming the canopy from KEVLAR, as taught by Reece, in order to increase the strength and fire resistance of the canopy.

Response to Amendment

Applicant's remarks filed November 25, 2003 have been fully considered but are deemed moot due to the new grounds of rejection as advanced above.

Conclusion

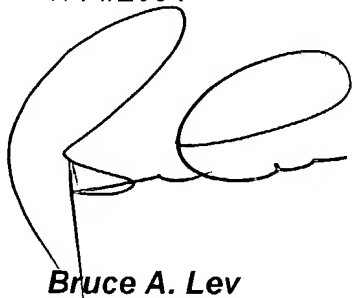
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bruce A. Lev whose telephone number is (703) 308-7470.

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Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-2168.

7/14/2004

A handwritten signature in black ink, appearing to read 'Bruce A. Lev', with a large, stylized initial 'B' and 'L'.

Bruce A. Lev
Primary Examiner
Group 3600